

THE STATE BAR OF CALIFORNIA
LITIGATION SECTION ANNUAL TRIAL SYMPOSIUM
CO-SPONSORED BY THE LABOR AND EMPLOYMENT LAW SECTION

CHAMPIONS OF THE COURTROOM

THE ART OF TRYING CASES

Silverado Resort - Napa, California
Friday, April 16 to Sunday, April 18, 2004

Trying Employment Cases
with Sympathetic Plaintiffs
and Unsympathetic Defendants

Plus
Dinner Award Ceremony to Honor
Ephraim Margolin and **Kurt Melchior**
The 2004 Co-Recipients Of
The Trial Lawyer Hall Of Fame Award

and Keynote Speech by
Daniel Petrocelli

EARN UP TO 9.75 HOURS
OF MCLE CREDIT

Trial Lawyer Hall of Fame Award



Kurt W. Melchior has established himself as one of the pre-eminent trial lawyers. Kurt, who is a Senior Partner with Nossaman, Guthner, Knox & Elliott LLP, has more than 50 years of experience in litigation and has been counsel of record in more than 70 published cases. He represents policyholders in large-scale insurance coverage suits, defends major antitrust cases asserting price fixing and other restraints of trade, litigates antitrust consumer fraud, securities, contract and real estate matters

including numerous class actions (two class action tried to verdict, one described by Court of Appeal as an "epic trial drama"), and represents physicians, lawyers and accountants on matters of professional competence. He also acts as an expert witness with respect to attorneys' professional obligations and standard of care and on insurance coverage issues.

Kurt received his undergraduate and graduate degree from University of Chicago and earned his LLB at Yale. Kurt has served as Vice President of the State Bar of California; and was for 20 years a Senior State Bar Delegate to the House of Delegates, American Bar Association; Member of the American Bar Association's Standing Committee on Specialization; President of the San Francisco Law Library. In his long-standing commitment to the community, he has served, among others, as President of the San Francisco Bilingual School, the Oakes Children's Center, and the San Francisco Association for Mental Health.

Ephraim Margolin graduated Hebrew University in Jerusalem and Yale Law School. In 1956, Ephraim clerked in the Supreme Court of Israel. Since 1962, when he became a California lawyer, he served inter alia, as a President of the Lawyer's Club of San Francisco; California Academy of Appellate Lawyers; The National Association of Criminal Defense Lawyers, and California Attorneys for Criminal Justice. Ephraim was Chair of The Jewish Community Relations Council of San Francisco, Peninsula and Marin Counties and is an Advisory Counsel for Northern California American Civil Liberties Union.

Ephraim represents law offices and lawyers in contempt, sanctions, office dissolution and ethical matters. He represented some of the largest law firms in the United States. Over the years, he also represented Israel, Mexico and Tunis, the California State Assembly; California Department of Transportation; California Public Utilities Commission; several counties in California; and the Bank of America. Ephraim's success in the *Shirley* case in the California Supreme Court (Admissibility of Hypnosis in California Courts) and his loss in the *John Gotti* appeal in the 2nd Circuit, contributed to his national exposure. He also handled non-traditional civil cases such as the Tobacco case, compelling Mr. Wigand's defense for disclosing cigarette manufacturing secrets on 60 Minutes. This case was depicted in the movie "The Insider." Ephraim's name appears on more than 1,000 reported appeals nationally.

General Information

Hotel Information

Deadline: March 16, 2004

Silverado is a historic destination resort set in the rolling, sunny hills of the Wine Country. This 1,200 acre resort features uniquely private and personalized accommodations, together with two of the finest 18 hole golf courses in Northern California, a world-class Spa, ten swimming pools, an outstanding and extensive Tennis center with 17 plexi-pave courts (3 with night lighting!).

The resort is conveniently located in Napa County, within ninety minutes driving time to the San Francisco and Oakland Airports (for additional directions and resort information please see the resort website at www.silveradoresort.com)

Rates & Reservations: For reservations please call the Silverado Resort at 1-800-532-0500. Please make sure you mention the State Bar of California to receive the group rate of \$250 per night (subject to all applicable taxes) for a one-bedroom suite, single or double occupancy. A one-night deposit is required to guarantee reservations.

Cancellations: Hotel cancellations by individual attendees may be made without penalty until seven (7) days prior to arrival date. Cancellations within seven (7) days will forfeit all deposits on record.

Program Registration Fees

Advance registration deadline is April 7, 2004

Registration fee includes all education programs and materials; Friday night welcome reception; continental breakfast on Saturday & Sunday; Saturday deli lunch; Saturday night reception and dinner.

Fees are \$475 for Litigation and Labor & Employment Law Section members and \$540 for Non-Section members (includes membership in either Litigation or Labor & Employment Law Section). If the State Bar does not receive your registration by April 7, 2004, you must register on-site at the on-site fee of \$575.

Guest fees are \$175 per person and include the Friday night welcome reception and the Saturday night reception and dinner.

On-Site Registration: available for a fee of \$575 (does not include section membership).

Refunds: registration and/or ticket refund request must be in writing and received by April 7, 2004. All refunds are subject to a \$50 service charge.

Special Ticketed Events

Please sign-up on registration form. Reserve early, space is limited.

Wine Tasting Tour: Enjoy wine tasting plus a tour at two prestigious Napa Valley wineries. Round trip transportation is included. Ticket price: \$50 per person.

Golf: Take advantage of our special reduced green fee for an afternoon playing Golf on one of Northern California's most beautiful courses.

Ticket price: \$120 per person (cart included)

Register Online at www.calbar.ca.gov/litigation

Questions

For registration information please call (415) 538-2508. For program content/section information or Special Assistance call Tom Pye at (415) 538-2042.

Champions of the Courtroom

At this year's Trial Symposium, the nation's best trial lawyers will prosecute and defend Frank Whistler's case against Hemogenetics, Inc. and Sawyer using cutting edge courtroom technology. The symposium offers the opportunity to learn from the Champions of the Courtroom as they demonstrate their skills litigating an employment case with sympathetic plaintiffs and unsympathetic defendants. Learn how they craft and present persuasive opening statements and closing arguments, conduct effective examination of damages experts and percipient witnesses, and use modern courtroom technology and advanced demonstrative evidence for the benefit of their clients.

In 1997, Hemogenetics, a bioscience company, hired Frank Whistler as a research associate. Despite his job title, Whistler spent most of his time handling and transporting potentially hazardous blood in his own car, between worksites, in violation of federal regulations. Whistler complained about the health risks associated with his assignments to his supervisor, Karen Sawyer, and requested duties that would allow him to perform the research for which he was hired, but Sawyer refused.

At the time of Whistler's employment, Hemogenetics did not have a safety manager and little accountability for safety violations. Despite Whistler's numerous complaints, Hemogenetics continued to ignore safety regulations, and exposed employees (including Whistler) to Hepatitis B and HIV infected blood. While transporting infected samples between freezers at unsafe temperatures, Whistler sustained a cut to his finger in June 2002. Fortunately, he was not infected by this

incident but did increase his advocacy for safety in the work place. Whistler also complained to Cal-OSHA about these violations.

Sawyer was critical of Whistler's job performance, including what she viewed as insubordination, and the fact that Whistler was absent from work for long periods of time. Whistler also became more confrontational. On October 7, 2002, he berated two coworkers, Jaroslav Korpachenko and Sara Stein, when they asked him to assist with a project. Stein was so upset that she had trouble sleeping that night, and the next morning she complained to Sawyer. In consultation with Hemogenetics Human Resources Director, Sawyer then terminated Whistler's employment.

Whistler believes Hemogenetics terminated him in retaliation for his safety complaints. Immediately after his termination, he made a formal complaint to Cal-OSHA about safety violations at Hemogenetics. Cal-OSHA conducted an investigation, found numerous safety violations, and assessed \$20,000 in fines against Hemogenetics. Whistler then sued Hemogenetics for wrongful termination in violation of public policy, intentional infliction of emotional distress, and defamation. Whistler named Sawyer as a defendant on his defamation claim, based on reports that she had provided negative job references about Whistler to prospective employers.

Whistler v. Hemogenetics, Inc. and Sawyer is set for jury trial on April 16, 2004.

Keynote Speaker



Daniel M. Petrocelli has a national trial practice representing clients in major litigation in a wide variety of areas, including entertainment, intellectual property, unfair competition, business torts, securities, and employment law. He has received numerous awards and distinctions, including most recently having been selected by The Columbus Citizens Foundation as one of its 2001 honorees. Daniel also has been named one of Los Angeles' Top 50 Litigators by the Los Angeles Business Journal;

Southwestern University Alumnus of the Year; Malibu Bar Association

Trial Lawyer of the Year; San Diego Trial Lawyers Association Trial Lawyer of the Year; and one of the Lawyers of the Year by California Lawyer.

Among his recent trials, Daniel represented a multinational oil and gas company and defeated claims by Burmese refugees seeking to impose alter-ego for torts allegedly committed by military soldiers in that country. He served as trial counsel for a national bookseller in successfully defending a federal antitrust trial brought by an association of independent booksellers. Daniel was lead counsel for the family of Fred Goldman in the wrongful death suit against O.J. Simpson, achieving a unanimous jury verdict and a judgment of \$33.5 million for all plaintiffs, including punitive damages of \$25 million.

Symposium Faculty

Judge Martin J. Jenkins, U.S. District Court for the Northern District of California in San Francisco

Justice Carol A. Corrigan, First District Court of Appeal, San Francisco

Justice Stuart Pollak, First District Court of Appeal, San Francisco

Judge William Cahill, California Superior Court for the County of San Francisco, 1991-2000

Judge Lawrence W. Crispo, California Superior Court for the County of Los Angeles

Judge J. Richard Haden, California Superior Court for the County of San Diego

Judge Jon S. Tigar, California Superior Court for Northern Alameda County

Judge James L. Warren, California Superior Court for the County of San Francisco

Cris Arguedas, Arguedas, Cassman and Headley, Emeryville, California

Todd Bailey, Alix Partners LLC, Los Angeles, California

James Brosnahan, Morrison & Foerster, San Francisco, California

Ed Chapin, Gordon Rees LLP, San Diego, California

Alan B. Exelrod, Rudy Exelrod et al LLP, San Francisco, California

Pat Gillette, Heller Ehrman White et al, San Francisco, California

Harvey R. Levine, Levine Steinberg et al, San Diego, California

Rick Markowitz, Regional Sales Manager of Northern California for LexisNexis

Mark Mazzarella, Mazzarella, Dunwoody & Caldarelli LLP, San Diego, California

Duross O'Bryan, Alix Partners LLC, Los Angeles, California

Nancy Pritikin, Littler Mendelson et al, San Francisco, California

Christopher Ritter, The Focal Point, LLP, Oakland, California

Allen Ruby, Ruby & Schofield, San Jose, California

Linda Miller Savitt, Ballard Rosenberg et al LLP, Universal City, California

Howard Varinsky, Varinsky & Associates Jury Consultants, Emeryville, California

Program Registration

Vital Deadlines:

Hotel Reservations: March 16, 2004

Advance Program Registration deadline: April 7, 2004

Note: If the State Bar does not receive your registration by April 7, 2004, you must register on-site at the on-site fee of \$575.

Champions of the Courtroom 2004

Advance Registration Deadline: April 7, 2004

Name: _____ Bar Number: _____

Address: _____ E-mail: _____

City/State/Zip _____ Phone: _____ Fax: _____

Non-Attorney Spouse/Guest Name: _____
(please check guest fee below)

☐ Your name and address may be disclosed to other 2004 Symposium attendees

Registration Fees: includes all educational programs and materials, the Friday night welcome reception, continental breakfast on Saturday & Sunday, Saturday deli luncheon, and Saturday night reception and dinner .

☐ Section Member: \$475

Total: _____

☐ Non-Member: \$540 (fee includes payment for enrollment in one of the following Sections for 2004)

Total: _____

Select One: ☐ Litigation Section ☐ Labor & Employment Law Section

I will attend Friday night welcome reception ☐ Yes ☐ No

I will attend Saturday deli luncheon ☐ Yes ☐ No

I will attend Saturday evening reception and dinner ☐ Yes ☐ No

I will attend Saturday continental breakfast ☐ Yes ☐ No

I will attend Sunday continental breakfast ☐ Yes ☐ No

I will attend Sunday continental breakfast ☐ Yes ☐ No

☐ Guest(s) fee: \$175

Total: _____

Guest will attend Friday night welcome reception ☐ Yes ☐ No

Guest will attend Saturday night reception & dinner ☐ Yes ☐ No

Ticketed Events:

Check one:

1. ☐ **Saturday Golf** :\$120 per person, special discount fee includes 18 holes of golf with cart provided No. of tickets x \$120 = _____

2. ☐ **Saturday Winery tour & tasting:** No. of tickets x \$50 = _____

Deadline: Your registration must be received no later than April 7, 2004, or registration will have to be done on site at the fee of \$575 (does not include Section membership).

Mail to: Program Registrations, State Bar of California, 180 Howard Street, 4th floor, San Francisco, CA 94105.

Fax To: (415) 538-2368 (Credit Card Information only. Do not mail original form.)

On-Line Registration: www.calbar.ca.gov/litigation

For More Information: Contact Program Registrations for registration assistance (415) 538-2508. Please contact Tom Pye, Litigation Section, for special assistance (415) 538-2546 .

Payment: You may pay by check, VISA or MasterCard.

Registrations will be accepted by FAX only when accompanied by credit card information.

☐ I authorize the State Bar of California to charge my Symposium Registration to my VISA/MasterCard account (no other credit cards will be accepted.)

Account Number: _____ Exp. Date: _____

Cardholder's Name: _____

Cardholder's Signature: _____

Refunds: registration and/or ticket refund request must be in writing and received by April 7, 2004. All refunds are subject to a \$50 service charge.

Register Online at www.calbar.ca.gov/litigation

Schedule of Events

Friday, April 16, 2004

- 2:00 – 7:00 p.m. Program Registration
- 3:00 – 4:15 p.m. EXPERT WITNESS PANEL
Justice Stuart Pollak; Judge William Cahill; Duross O'Bryan, CPA, Alix Partners LLC;
Todd Bailey, CPA, Alix Partners LLC
- 4:30 – 5:45 p.m. JURY INSTRUCTION PANEL
Justice Carol Corrigan; Alan Exelrod, Esq.; Linda Miller Savitt, Esq.; Rick Markowitz, LEXIS-NEXIS;
Howard Varinsky, Jury Consultant
- 6:00 – 7:30 p.m. Welcome Reception

Saturday, April 17, 2004

- 7:30 – 8:30 a.m. Continental Breakfast and Program Registration/MCLE Sign-In
- 8:30 – 10:00 a.m. OPENING STATEMENT PANEL
Presiding Judge: The Honorable J. Richard Haden
Cris Arguedas, Esq.; Nancy Pritikin, Esq.
- 10:00 – 10:15 a.m. Break
- 10:15 – 11:45 a.m. DIRECT AND CROSS EXAMINATION OF A SYMPATHETIC PLAINTIFF
Presiding Judge: The Honorable Martin J. Jenkins
Ed Chapin, Esq.; Allen J. Ruby, Esq.
- 11:45 - 12:45p.m. DELI LUNCHEON, Network with Speakers and Panelists
- 1:00 - 2:00p.m. TRIAL TECHNOLOGY PANEL
The Honorable Lawrence W. Crispo; Chris Ritter, Esq.; Robert Silverman, Esq.; Roger Holtzen
- 1:00 - 5:00 p.m. Wine Tasting Tour (separate ticketed event)
- 1:00 - 6:00 p.m. Golf (separate ticketed event)
- 6:30 – 7:30 p.m. Reception for Registered Attendees, Their Paid Guests and Speakers
- 7:30 - 10:00p.m. ANNUAL TRIAL SYMPOSIUM DINNER and KEYNOTE ADDRESS
Presentation of Trial Lawyer Hall of Fame Award
Keynote Address by Daniel Petrocelli, Esq.

Sunday, April 18, 2004

- 7:30 – 8:30a.m. Continental Breakfast
- 8:30 – 10:00 a.m. DIRECT AND CROSS EXAMINATION OF AN UNSYMPATHETIC DEFENDANT
Presiding Judge: The Honorable Jon S. Tigar
Mark Mazzearella, Esq.; James Brosnahan, Esq.
- 10:15 – 12:00noon CLOSING ARGUMENT PANEL
Presiding Judge: The Honorable James L. Warren
Patricia K. Gillette, Esq.; Harvey R. Levine, Esq.

Panels

In addition to the trial skills demonstration, the Symposium includes three panels:

Expert Witness Panel: Learn how to prepare and use experts in the trial of an employment action .

Jury Instruction Panel: Experts will discuss issues relating to the new civil jury instructions promulgated by the California Jury Instructions Civil Committee.

Trial Tech Panel: Learn how to develop and use effective trial graphics and technology in an employment action.

State Bar Education Foundation
Litigation Section
180 Howard Street
San Francisco, CA 94105-1639

FIRST CLASS MAIL
U.S. Postage
PAID
San Francisco, CA
Permit No. 611

Champions of the Courtroom Silverado Resort, Napa CA — April 16 to 18, 2004



Vital Deadlines

Hotel Reservations: March 16, 2004

Advance Program Registration deadline:
April 7, 2004

Note: If the State Bar does not receive
your registration by
April 7, 2004, you must register on-site
at the on-site fee of \$575.

Register Online at
www.calbar.ca.gov/litigation



The State Bar of California, the Litigation Section, and the Labor and
Employment Law Section are State Bar of California Approved MCLE Providers.

Sponsors

